

## **REMARKS**

Applicants cancel claims 45, 47, 49, 51, 53, and 55-56 without prejudice. Claims 1-44, 46, 48, 50, 52, and 54 have previously been canceled. Applicants submit pending claims 57-58 to more clearly recite the features of the invention. No new matter has been added.

Claims 45, 47, 49, 51, 53, and 55-56 were rejected under 35 U.S.C. § 102(b) as being anticipated by “Data Service Options for Spread Spectrum Systems: Radio Link Protocol Type 2” by the Telecommunications Industry Association (“TIA”) Engineering Committee TR-45 (hereinafter “RLP2”). Applicants cancel the rejected claims without prejudice, and submit claims 57-58 to more clearly recite the features of the invention.

RLP2, with reference to section 3.1.2 “Data Transfer” and section 3.1.4 “Segmentation of Retransmitted Data Frames” cited by the Examiner, describes that the retransmission of data frames that have not been received correctly is performed in accordance with a NAK-based protocol. At the retransmission, if the size of the retransmitted data frame exceeds the frame size allowed by the multiplex sublayer, RLP may segment the retransmitted data frame and retransmit the segmented data frames as Fundamental RLP frames with the same sequence number as the sequence number of the data frame being transmitted.

In other words, RLP2, as cited and relied upon by the Examiner, fails to disclose,

“[a] packet transmitting apparatus in a communication system for transmitting a packet upon changing over a parameter of a transmit signal in accordance with conditions of a propagation path, and, when the packet cannot be received correctly on a receiving side, retransmitting the packet, comprising:

buffer means for storing one or more transmitted packets with identifying information and a modulation parameter appended thereto;

decision means for deciding a modulation parameter based upon conditions of the propagation path; and

retransmitting means for deleting a packet from said buffer means when a successful reception is sent back for the

packet from a receiving side, and for retransmitting the packet, when a reception failure is sent back for the packet from the receiving side, upon attaching identifying information and the modulation parameter prevailing at a time of retransmission, with the retransmission being performed based upon a modulation scheme that conforms to the modulation parameter prevailing at the time of retransmission, wherein said retransmitting means comprises:

comparison means for comparing the modulation parameter appended to the packet to be retransmitted and a modulation parameter conforming to the conditions of the propagation path prevailing at the time of retransmission; and

means for retransmitting a plurality of transmitted packets, which have been stored in said buffer means, as a single retransmission packet upon attaching respective identifying information of the plurality of transmitted packets if a result of the comparison is that the conditions of the propagation path at the time of retransmission are superior to the conditions of the propagation path that prevailed at a time of a previous transmission,” as recited in claim 57. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 57, together with claim 58 dependent therefrom, is patentable over RLP2 for at least the foregoing reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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